

## **Maximizing Trust, Minimizing Conflicts: What Are Cities and Counties Doing to Promote Ethical Governance**

By: Robert Meyers\* & Christina Prkic\*

Ethics and accountability in government, and more specifically the public's perception of their absence in the administration of government, are subjects of continued analysis and debate. What are the ethical issues and concerns that underlie public administration? What are effective mechanisms to restore the public's trust in government? What is government, at all levels, doing to promote ethics, integrity and accountability in government?

At the federal level, the Ethics in Government Act of 1978, created the Office of Government Ethics, an executive branch ethics agency. Today, with more than seventy employees, the agency works with executive branch agencies and departments to prevent conflicts of interest through education and advice giving.

States have done their part as well. Presently, each state has some form of ethics oversight of its officials and state government personnel, either by way of an external ethics commission or an ethics committee within the state legislature. Although, the functions and authorities of such commissions and committees vary, state efforts to promote ethical governance and accountability, customarily include adoption of ethics codes for state officers and personnel, lobbyist regulations and disclosure laws.

On the local front, the efforts are less known. What is known, however, is that the local government landscape is not immune from the stories of unethical behavior and the conflicts of interest which have similarly plagued the federal and state governments. Yet, how have local governments responded? Several of the larger U.S. cities established local

ethics boards or commissions. New York City is the first, in 1963. These agencies, through education, enforcement and advice-giving, are specifically focused on local governmental decision-making entities and officials. Outside these formal and more well-established agencies, little else is recognized, or easily ascertainable for that matter, in the way of local ethics efforts across the country. Consequently, the Miami-Dade County Commission on Ethics and Public Trust prepared this “Ethics Survey.” We were interested to know what cities were doing to promote accountable and ethical governance. Furthermore, we wanted to know among other things, what mechanisms, both formal and informal, were in place to promote ethics and accountability in local governmental decision-making entities. Understanding that this would not gauge the ethical climate of local government in the United States in any exact or scientific manner, at minimum though, it could foster new dialogue and study of the subject.

The sixteen-question survey was mailed to five hundred and forty-seven [547] cities and counties with populations of 50,000 or more. The chief administrative officer for each jurisdiction received a survey, usually the manager/administrator, clerk or mayor. Of the 547, we received two hundred and thirty-three [233] responses. One was returned as undeliverable. Thirteen of the questions sought “yes” or “no” responses. The remaining three required that only one answer be selected. See attached survey.

### ***What Was Discovered***

Nearly one-quarter of all respondents indicated they had some formal ethics board/commission. Interestingly, of those governments that have no formal ethics panel or board, 93% stated there was no real interest in creating one. The lack of interest in creating a formal ethics panel may be attributed to two factors: 1) the perceived lack of

need – that ethical lapses are uncommon in their jurisdiction and 2) the redundancy of having a second ethics tribunal with overlapping jurisdiction with the state ethics commission. Incidentally, each state has adopted a code of ethics, but in fifteen states the codes are not applicable to local government.

Over 80% of the responding governments have their own set of formal policies/laws/rules that establish minimum standards of ethical conduct for their personnel, separate from those obligations the respective states impose. This finding suggests that some local government personnel must adhere to at least two codes of conduct – those mandated by the state and those imposed by their municipalities. In cases where the county government promulgates ethics policies which are binding on the municipalities, these local public officials and employees would be required to comply with a third set of standards. When multiple, possibly conflicting, standards exist, training is essential to ensure that local government personnel are adequately prepared to act within the constraints of the law. Without training, many of the well-intended might unwittingly violate the law. Twenty- percent of those surveyed who have not adopted a local code of conduct claim they are not obligated to adhere to state-mandated ethical standards either. Perhaps, operating without a code of ethics in these governments is not the most appropriate response in an era when public officials are eager to reassure the public they are committed to accountability and integrity.

Over 40% of all local governments surveyed offer some form of regular ethics training or education to employees. This percentage drops to 30% for those in management positions and only 17% of all elected officials are mandated to participate in ethics training. These findings indicate that local governments do not wholeheartedly

embrace ethics training. In an era of belt-tightening and reduced budgets, the perceived luxuries, such as training, may be the first items cut. Thus, the lack of ethics training may be on account of economic hardships. On the other hand, governments simply may not be willing to sacrifice other forms of training in favor of ethics training. The relatively low percentage of the general workforce exposed to ethics training is somewhat disappointing, but far more disturbing is that elected officials as a group, are far less likely to receive ethics training than government managers and employees. In order to reinforce the principle that local governments are dedicated to maintaining public trust and preserving an ethical climate, ethics training for those in leadership positions ought to be a top priority, as they set the moral tone for their governments.

Exposure to ethics comes in another form as well. Ethics is included in the new employee orientation program in more than one-half of the jurisdictions. It is encouraging that a majority of local governments deem that ethics is worth addressing in employee orientation sessions, but there were no related questions about the time allocated to ethical issues as a percentage of the entire training curricula.

Most local governments, more than 80%, have resources available for officials and employees who request or seek ethical advice. More than half of the governments expect the city/county attorney to dispense this advice. Other main sources include the ethics board, if one exists, and the manager's office. It is comforting to know that local governments recognize that advice-giving on ethical matters may contribute to ethical organizations, enabling employees to "do the right thing." Somewhat revealing is the fact that personnel or human resources departments are not mentioned as sources for advice-giving. Local governments should be applauded for making the means available

for employees who are seeking help resolving their ethical dilemmas, but what is unknown is the extent to which government publicizes these sources and whether employees actually access these departments in a meaningful way.

As far as reporting allegations of ethical misconduct committed by local government officials and employees is concerned, one-half of all governments have a hotline or other avenue to report wrongdoing. No information was collected concerning the volume of calls, the procedures employed to investigate the complaints or the number of legitimate grievances.

Approximately two-thirds of all respondents provide whistleblower protection for employees who expose corruption and unethical conduct. In all likelihood, this is in addition to the protection afforded whistleblowers under state law. Questions about retaliation for blowing the whistle, willingness to blow the whistle again and one's satisfaction with this process, were not part of the survey but would be of some value.

Finally, respondents were queried about one or more areas of greatest ethical concern confronting local governments and almost four-fifths indicated that general conflict of interest questions were their greatest concern. Lack of public trust was a distant second (37%), followed by campaign finance reform and lobbying reform, approximately 10% and 6%, respectively. These findings support national polling that the general public does not rate campaign finance reform as the greatest impediment to ethical governing. It is difficult to interpret why there was such an overwhelming number of respondents who cited general conflict of interest questions as the most pressing concern. One can speculate that local government personnel are regularly faced with predicaments which require them to reaffirm their commitment to public service at the expense of personal

gain. Another explanation could be that local public servants all too frequently witness their colleagues engaging in questionable conduct. The researchers were unable to conclude from the survey questions whether the concerns about conflicts of interest are based on actual conflicts that manifest themselves on a recurring basis or whether the appearance of impropriety presents difficult choices for personnel. Notwithstanding the manner in which we categorize potential conflicts (real or perceived), more should be done to expand the discussion of this subject. There is a real possibility that local public service inevitably results in values often at odds with one another, forcing personnel to formulate decisions based upon competing “goods” or “evils” that they construe as conflicts.

### ***Now What?***

It is difficult to predict or glean any local government ethics trends from this survey. Does the lack of interest in creating an ethics commission or board augur doom for ethical governance at the local level? Probably not. As noted above, the perceived lack of need or the overlapping jurisdiction with the state ethics commission may explain that response. An additional explanation may be attributed to budget limitations, the inability to fund an autonomous ethics agency. What the survey illustrates, at the very least, is that more can be done to promote ethics in local government administration. For instance, placing greater emphasis on ethics training and education. While budget restrictions seemingly present impediments toward establishing extensive ethics training and education programs, there are examples of valuable and cost-effective mechanisms for delivering such programs.

The survey also illustrates the opportunities for developing local government ethics policies and practices. Few respondents maintain any lobbyist regulations [nearly three-fourths do not] and a considerable number of local officials and employees are exempt from statutory ethics regulations. Moreover, the fact that “general conflicts of interest” are still a major ethical concern for government officials and employees, invites further review and assessment of how to tackle this issue.

Arguably, it is too soon to judge the broader implications of what this survey reveals. Local ethical government administration entails a comprehensive and holistic approach, involvement by government, businesses and citizens to restore and sustain the public trust. More importantly, we hope this survey encourages further study by researchers, academics, government officials and administrators in the arena of local government ethics.

### **Ethics Survey**

(Please check only one response)

1. Does the city/county have an ethics board or commission?  
YES\_\_\_ NO\_\_\_
2. If the answer to question 1 is NO, is there an interest to create one?  
YES\_\_\_ NO\_\_\_
3. If the answer to question 1 is YES, how often is the ethics board or commission required to meet?  
Monthly\_\_\_ Bimonthly\_\_\_ Ad Hoc basis\_\_\_
4. Is there a designated ethics officer for each city department?  
YES\_\_\_ NO\_\_\_
5. Does the local government have a Code of Ethics Ordinance or Conflict of Interest policy that constitutes a minimum standard of conduct for city employees and officials?  
YES\_\_\_ NO\_\_\_
6. If the answer to question 5 is NO, is there a State Code of Ethics that applies to city employees and officials?  
YES\_\_\_ NO\_\_\_
7. Does the city have rules or regulations governing lobbyist registration and reporting?  
YES\_\_\_ NO\_\_\_
8. Do city employees participate in some form of regular government ethics training and/or ethics education?  
YES\_\_\_ NO\_\_\_
9. Are elected officials required to participate in ethics training?  
YES\_\_\_ NO\_\_\_
10. Is ethics training required of all managers?  
YES\_\_\_ NO\_\_\_
11. Is government ethics included in new employee orientation?  
YES\_\_\_ NO\_\_\_
12. Is there a mechanism in place for government employees and officials to request or seek ethical advice?  
YES\_\_\_ NO\_\_\_



13. If the answer to question 12 is YES, who handles these requests? (Circle one)

City Attorney      Ethics Commission/Board      City Manager      Other

14. Is there a mechanism in place, such as a hotline for example, for citizens and/or employees to register complaints about unethical conduct or abuses in government?

YES\_\_\_      NO\_\_\_

15. Is there whistleblower protection for city employees who register complaints about unethical conduct or abuses in government?

YES\_\_\_      NO\_\_\_

16. What are the major ethical issues or concerns for city employees and officials?

General Conflicts of Interest\_\_\_      Lack of public trust in government\_\_\_

Campaign finance reform\_\_\_      Lobbying Reform\_\_\_      Other\_\_\_

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The Miami-Dade County Commission on Ethics and Public Trust is an independent agency with advisory and quasi-judicial powers. Its five member commission is dedicated to restoring public trust in the administration of government through informing the public and private sector about the laws and seeking strict compliance with them. The agency renders ethics advisory opinions, investigates complaints related to the ordinances within its jurisdiction and conducts ethics education and outreach programs around the community.